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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,711

09/30/2004

Andrew James Goodwin

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12/31/2008

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EXAMINER

ARANCIBIA, MAUREEN GRAMAGLIA

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

12/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/509,711	Applicant(s) GOODWIN ET AL.	
	Examiner Maureen G. Arancibia	Art Unit 1792	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Maureen G. Arancibia/
Examiner, Art Unit 1792

/Parviz Hassanzadeh/
SPE, AU 1792

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant's arguments filed 15 December 2008 have been fully considered but they are not persuasive.

In regards to Applicant's argument that a new office action should be issued to more clearly recite the rejections of the instant claims that rely upon references other than Kolluri or Roth, and that the finality of the previous office action should be withdrawn to allow the Applicant an opportunity to address these new rejections, this argument is not persuasive. Each individual grounds of rejection was clearly set forth in the previous office action, and the references relied upon for each grounds of rejection are clearly identified in the rejection headings. While additional references are cited in the Examiner's arguments, these references are not relied upon for the actual grounds of rejection, but are cited to show why certain of Applicant's arguments regarding the knowledge available to one of ordinary skill in the art at the time of the invention were not persuasive and/or to establish that certain modifications rendered obvious by Kolluri, Roth, or the other applied references would have been within the skill of one of ordinary skill in the art at the time of the invention.

In regards to Applicant's arguments relying on the Declaration of Dr. O'Neill, these arguments are not considered, since the Declaration will not be entered. Specifically, Applicant failed to provide a showing of good and sufficient reasons why the Declaration is necessary and was not earlier presented, so the Declaration will not be entered.

In regards to Applicant's argument that U.S. Patent No. 7,455,892 has issued with claims directed to a process introducing an atomized liquid and/or solid coating forming material into a homogeneous APGD and exposing a substrate to the atomized material after exposure of the material to the plasma, and that therefore the instant claims should also be allowed, this argument is not persuasive. Specifically, while the claims of U.S. Patent No. 7,455,892 require a process including the specific steps of introducing an atomized liquid and/or solid coating forming material into a homogeneous APGD and exposing a substrate to the atomized material after exposure of the material to the plasma, the instant claims require only an apparatus capable of performing the recited function of introducing an atomized liquid or solid coating material into a first or second plasma region. The claims of the instant application are not commensurate with the claims now issued in U.S. Patent No. 7,455,892. Examiner has shown in the instant application why it would have been obvious to one of ordinary skill in the art, in view of the teachings of the prior art, to arrive at an apparatus having all of the claimed structural features and being capable of performing the recited function.

The remainder of Applicant's arguments have been carefully considered. It is considered that Applicant's arguments have been fully responded to by Examiner's arguments in the final rejection of 15 October 2008, and Examiner maintains all of the arguments set forth in the final rejection of 15 October 2008. Specifically, Examiner maintains the central argument that one of ordinary skill in the art, informed by the teachings of Roth et al. that a planar metallic electrode 10 should be covered with dielectric plates 14 on all sides to discourage electrical arcing from the edges or back side of the electrode plates, would have found it obvious to further modify the three pairs of electrodes taught by the modified apparatus of Kolluri for each to be a planar metallic electrode covered with dielectric plates on all sides, such that dielectric plates would be arranged between each pair of electrodes. Doing this would not destroy the principle of operation of Kolluri, which after all is directed to forming a stable plasma discharge -- one of ordinary skill in the art would have a reasonable expectation of success of discouraging arcing and therefore improving the stability of the plasma discharge.